



**The International Treaty**  
ON PLANT GENETIC RESOURCES  
FOR FOOD AND AGRICULTURE



Food and Agriculture  
Organization of the  
United Nations

# The Nagoya Protocol and the Multilateral System

**Secretariat of the International Treaty, FAO**

**14th ECPGR Steering Committee meeting, Višegrad, 1st June 2016**

*[www.planttreaty.org](http://www.planttreaty.org)*

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# Overview

- Background
- PGRFA and food security
- The Multilateral System of Access and Benefit-sharing
- Interface between the MLS and the Nagoya Protocol
- Conclusion

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# Background

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# What is the International Treaty?

An international legally binding instrument aimed at the

- **conservation** and
- **sustainable use of plant genetic resources for food and agriculture** and
- **the fair and equitable sharing of the benefits arising out of their use,**

for **sustainable agriculture and food security,**

in harmony with the ***Convention on Biological Diversity***.

2001



Part IV of the Treaty  
Articles 10-13

Legal Text

2007



Treaty launches  
Multilateral  
System

Implementation

2015



Programme of  
Work on the  
Global  
Information  
System

Present



Accessions  
transferred to  
breeders,  
farmers and  
researchers

Field Results

More than 3.2 million accessions already transferred

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# The scope of the Treaty:

ALL plant genetic resources for food and agriculture





# PGRFA and food security

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## Why facilitated access?



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# PGRFA & food security on the Global Agenda

- ❖ A profound change of the global food and agriculture system is needed if we are to nourish today's 795 million hungry and the additional 2 billion people expected by 2050, especially under the impact of climate change on agricultural systems.
- ❖ The food and agriculture sector offers key solutions for development, and is central for hunger and poverty eradication, including the **ITPGRFA**.



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# PGRFA & food security on the Global Agenda

The Sustainable Development Goals give great importance to **the contribution of plant genetic diversity to food security, through its conservation, access and benefit-sharing**. Particular in targets 2.5 and 15.6:

- *2.5: By 2020, maintain the genetic diversity of seeds, cultivated plants and farmed and domesticated animals and their related wild species, including through soundly managed and diversified seed and plant banks at the national, regional and international levels, and promote access to and fair and equitable sharing of benefits arising from the utilization of genetic resources and associated traditional knowledge, as internationally agreed.*
  - *15.6: Promote fair and equitable sharing of the benefits arising from the utilization of genetic resources and promote appropriate access to such resources, as internationally agreed*
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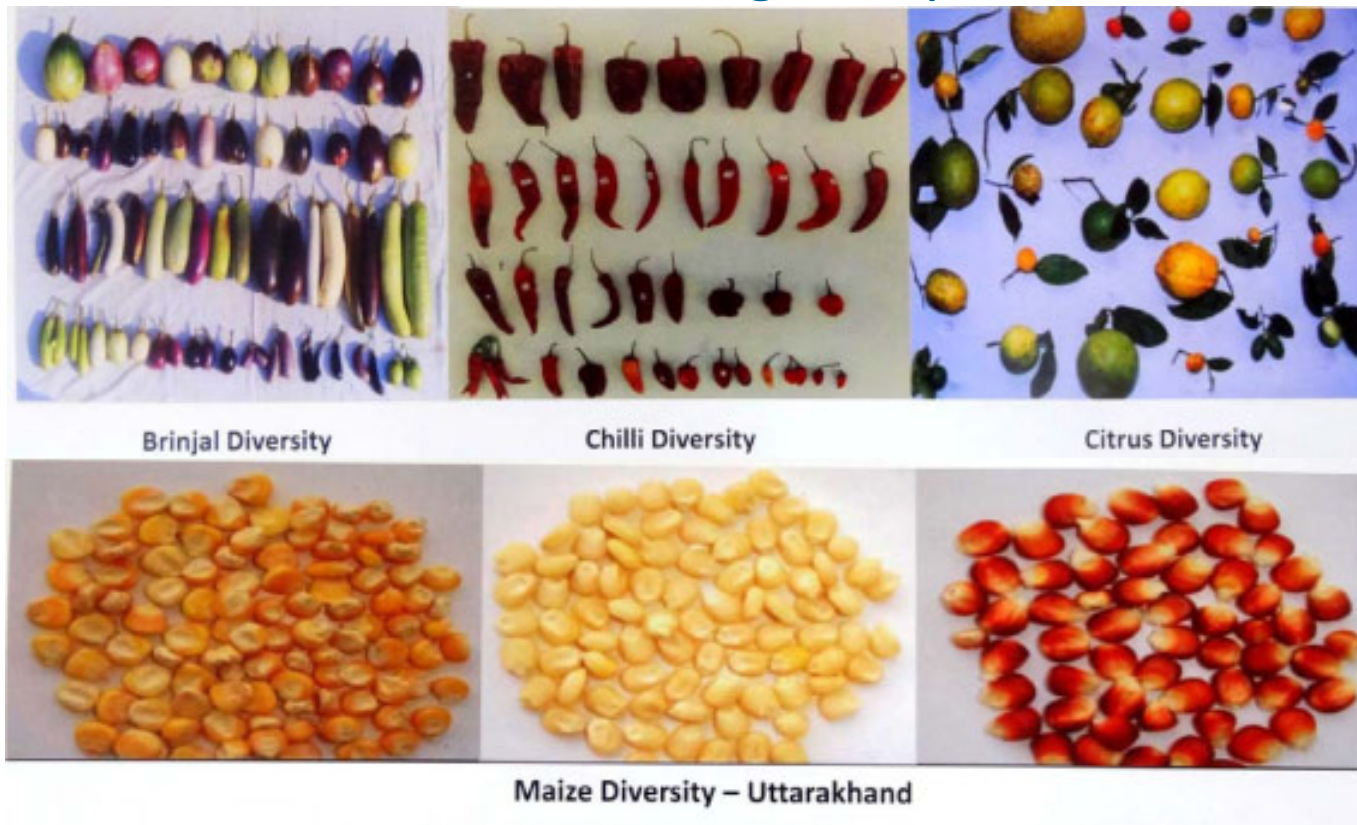
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# Agriculture has always been based on access and exchange, not on exclusivity



- ❖ People have always swapped their crops and “landraces”
- ❖ Farmers exchange seeds and breed exotic material into their crops, in order to avoid productivity declines

# Conserving and exchanging varieties for food security and climate change adaptation



Agrobiodiversity must be made accessible to every farmer and used by scientists and people to enhance our options to ensure food security



# The MLS

## The Multilateral System of Access and Benefit-Sharing

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# Basic features of the MLS

- ❖ Applies to a **list of crops** established according to criteria of food security and interdependence
- ❖ These provide about **80% of our food from plants**
- ❖ To **facilitate access** to plant genetic resources for food and agriculture, and to **share, in a fair and equitable way, the benefits** arising from their use



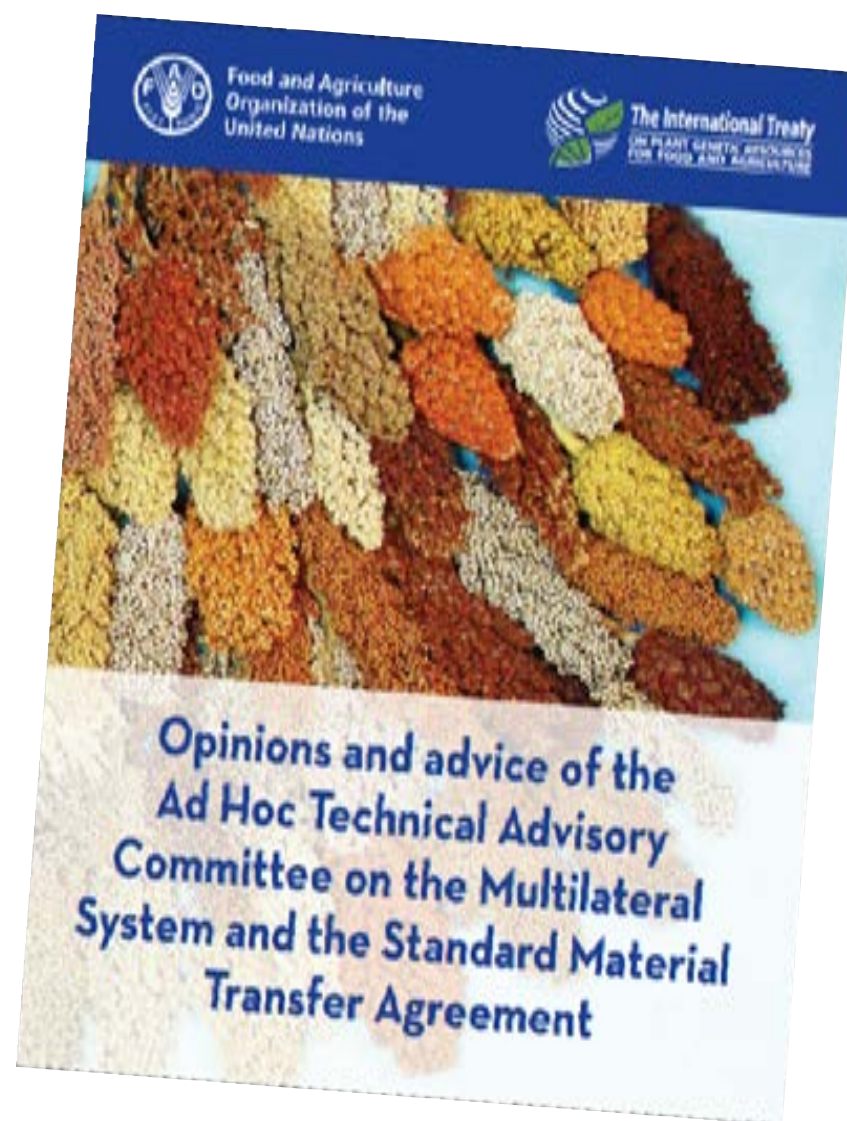
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# What is it in the MLS?

- Annex I material under the management and control of Contracting Parties (Art. 11.2)
- Material included by natural and legal persons (Art. 11.3)
- Annex I material from *ex situ* collections of CGIAR centres (Articles 11.5 and 15.5)
- Material from Benefit-sharing Fund projects
- **Voluntary inclusions: Non-Annex I material from CGIAR Centres, Contracting Parties and natural and legal persons voluntarily included.**

# Opinions and advice on the use of the SMTA and the MLS

- ❖ Published in July 2015
- ❖ Useful guidance to Contracting Parties in implementing their obligations under the Treaty



# Type of Opinions(O) and Advice(A)

- O2: Identification of PGRFA under the management and control of CPs and in the public domain
- O 4: Practical and legal implications for natural and legal persons putting material into the MLS
- O5: *In-situ* material and the MLS: Standards for access
- O9: Non-food / non-feed uses of PGRFA
- O10: Transfer and use of PGR under the MLS – transfer by providers and recipients, other than CGIAR centres and other institutions, to farmers for direct use for cultivation
- A1: The practical and legal implications for natural and legal persons putting material into the MLS – frequently asked questions
- A2: Inclusion of material into the MLS
- A10: Genera and species of Annex I crops.

[http://www.planttreaty.org/sites/default/files/OPINIONS\\_MLS\\_SMTA\\_v1.pdf](http://www.planttreaty.org/sites/default/files/OPINIONS_MLS_SMTA_v1.pdf)



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# Exchange of PGRFA under the MLS

- ❖ The Multilateral System “pools” these crucial plant genetic resources
- ❖ Facilitates access under the Standard Material Transfer Agreement (SMTA)
- ❖ The SMTA is a standard contract, not to be changed or negotiated.

# PGR exchange for food security

- >1,7 million included accessions documented
- 47.000 SMTA transferred since 2007
- More than 3,2 million accessions transferred

PGRFA received from the MLS by Region – (Jan 2016)	
Africa	596,340
Asia	1,033,024
Europe	465,742
Latin America and the Caribbean	379,141
Near East	537,795
North America	153,458
Southwest Pacific	153,548





# Improving the System

## The MLS Enhancement Process

- ❖ **GB decided to develop a range of measures that will**
  - (a) increase user-based payments and contributions to the Benefit-sharing Fund in a sustainable and predictable long-term manner
  - (b) enhance the functioning of the Multilateral System by additional measures
  
- ❖ **Options and measures (Resolution 1/2015):**
  - (a) **Revised SMTA** to make provision for a **Subscription System** and to possibly include a termination clause, user/crop categories, differentiated payment rates;
  - (b) Adapting the **coverage of the MLS**;
  - (c) Issues regarding **genetic information associated with the material** accessed from the MLS.
  
- ❖ **CP regions, stakeholder groups, consultations and submissions**



# Core GLIS obligations

17.2 Early warning

17.1 facilitating exchange of info on scientific, technical and environmental matters related to PGRFA.  
Cooperation on development sought from CHM-CBD

17.3 SOW-PGRFA

13.2(a) GLIS must contain catalogues and inventories, information on technologies, results of technical, scientific and socio-economic research, including characterization, evaluation and utilization, regarding PGRFA under the MLS

SMTA art 6.9  
GLIS must enable recipients to make available non-confidential information that results from R&D carried out on the material received

5.1(e) cooperation on ex situ documentation  
7.2(b) international cooperation and activities on documentation and access to information

5.1(a) inventory of PGRFA  
5.1(b) collection of relevant information  
6.1 sustainable use  
12.3(c) sharing passport data and information with the transfer of PGRFA  
13.2(b) access to & transfer of technology  
13.2(c) Capacity-building

**Treaty obligations that may support, be supported by, or be included in the GLIS**

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# The Global Information System

**Vision:** *GLIS integrates and augments existing systems to create the global entry point to information and knowledge for strengthening the capacity for PGRFA conservation, management and utilization. (Oct. 2015)*

- Adoption of the first PoW-GLIS (2016-2022);
- Establishment of the Scientific Advisory Committee (The CBD is invited. 10 and 11 October 2016 in Rome)



Global Information System  
ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

# Impact of the Treaty: MLS and BSF

- **3508 new varieties** of rice, maize, barley, millet, sorghum, etc. evaluated against resistances to biotic and abiotic stresses
- almost **130.000 direct project beneficiaries** (including 114.000 farmers)
- directly or indirectly reached approx. **10.5 million beneficiaries** (95 % farmers)
- 16 community seed banks established, fully operating to conserve 1120 crop varieties
- **310 capacity building workshops and training courses**, directly involving **16.000 participants** have been provided
- 55 applications have been submitted, for rice, millet, wheat, chickpea and sesame varieties for registration to the Plant Variety Authority of India
- **60 research theses** – from BSc to PhD directly supported through the implementation of BSF projects



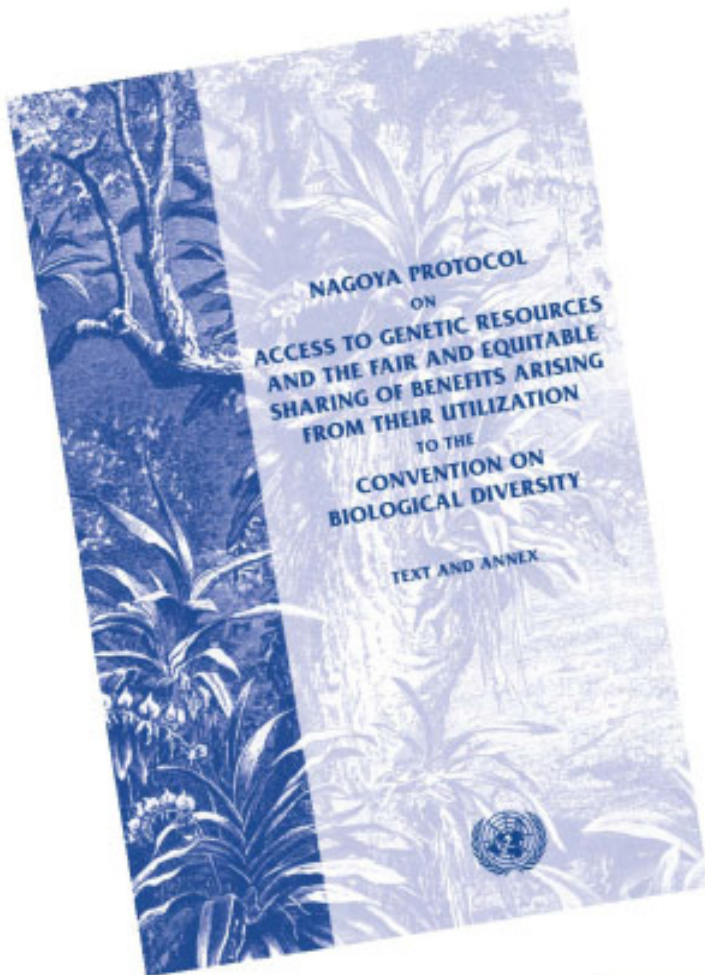
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**IT/MLS/NP**

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Interface between the  
Treaty, the MLS and the  
Nagoya Protocol



# A glimpse at the Nagoya Protocol (COP X/1)



Convention on  
Biological Diversity

CONFERENCE OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL DIVERSITY  
Tenth meeting  
Nagoya, Japan, 18-29 October 2010  
Agenda item 3

DECISION ADOPTED BY THE CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY AT ITS TENTH MEETING

*XII. Access to genetic resources and the fair and equitable sharing of the benefits arising from their utilization*

*The Conference of the Parties,*

Recalling that the fair and equitable sharing of the benefits arising from the utilization of genetic resources is one of the three objectives of the Convention on Biological Diversity,

Recalling also Article 15 of the Convention on access to genetic resources and the fair and equitable sharing of the benefits arising from their utilization,

Further recalling its decision VI/24 A adopting the Bonn Guidelines on Access to Genetic Resources and the Fair and Equitable Sharing of the Benefits Arising from their Utilization,

Further recalling the Plan of Implementation adopted by the World Summit on Sustainable Development held in Johannesburg in September 2002, which calls for the development of an international regime on access to genetic resources and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources,<sup>1</sup>

Recalling decision VII/19 D, in which the Ad Hoc Open-ended Working Group on Access and Benefit-sharing (the Working Group) was mandated with the collaboration of the Ad Hoc Open-ended Intersessional Working Group on Article 8(j) and Related Provisions, to elaborate and negotiate an international regime on access to genetic resources and benefit-sharing with the aim of adopting an instrument/instruments to effectively implement the provisions of Article 15 and Article 8(j) of the Convention and the three objectives of the Convention,

Recognizing that the International Regime is constituted of the Convention on Biological Diversity, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, as well as

<sup>1</sup> Report of the World Summit on Sustainable Development, Johannesburg, South Africa, 26 August-4 September 2002 (United Nations publication, Sales No. E.O.SII.A.1 and corrigendum), chap. I, resolution 1, annex, para. 44 (c).

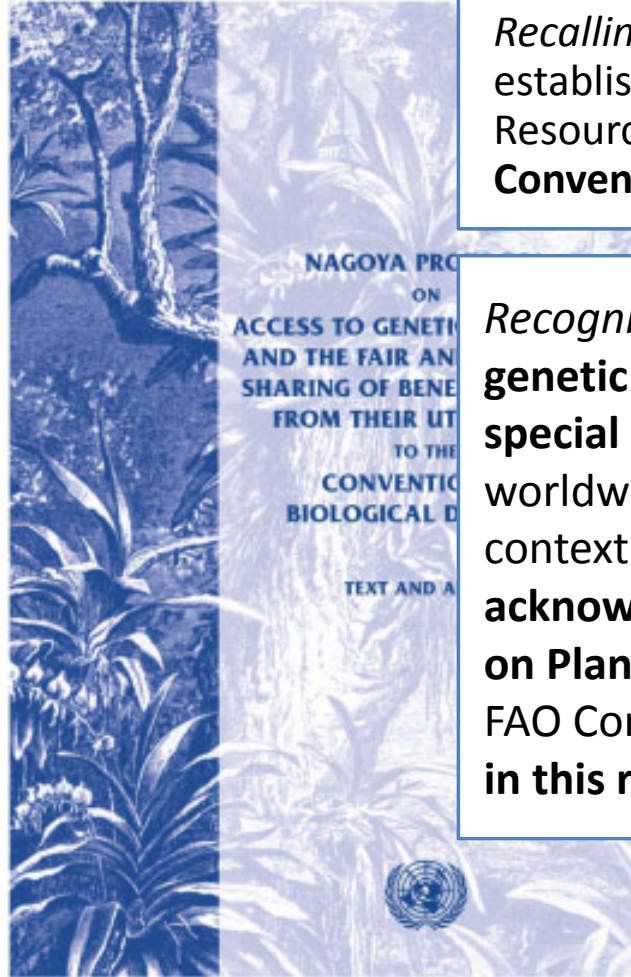
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In order to minimize the environmental impacts of the Secretariat's processes, and to contribute to the Secretary-General's initiative for a "Green UN", this document is printed in limited numbers. Delegates are kindly requested to bring their copies to meetings and not to request additional copies.

Recognizing that the **International Regime** is constituted of the Convention on Biological Diversity, the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity, as well as complimentary instruments, including the **International Treaty on Plant Genetic Resources for Food and Agriculture** and the Bonn Guidelines on Access to Genetic Resources and Fair and Equitable Sharing of the Benefits Arising out of their Utilization;



# A glimpse at the Nagoya Protocol (COP X/1)



*Recalling the **Multilateral System of Access and Benefit-sharing** established under the International Treaty on Plant Genetic Resources for Food and Agriculture **developed in harmony with the Convention;***

*Recognizing the **interdependence of all countries with regard to genetic resources for food and agriculture** as well as **their special nature and importance** for achieving food security worldwide and for sustainable development of agriculture in the context of poverty alleviation and climate change and **acknowledging the fundamental role of the International Treaty on Plant Genetic Resources for Food and Agriculture and the FAO Commission on Genetic Resources for Food and Agriculture in this regard;***

# A glimpse at the Nagoya Protocol (COP X/1)

Nagoya Protocol

(e) "Derivative" means a naturally occurring biochemical product resulting from the genetic expression or metabolism of biological resources, even if it does not contain functional units of those resources.

## Article 3 SCOPE

This Protocol shall apply to genetic resources within the scope of the Convention and to the benefits arising from the utilization of such resources. This Protocol shall also apply to traditional knowledge associated with such resources within the scope of the Convention and to the benefits arising from such knowledge.


## Article 4 RELATIONSHIP WITH INTERNATIONAL AGREEMENTS AND INSTRUMENTS

1. The provisions of this Protocol shall not affect the rights and obligations of any Party deriving from any existing international agreement, except where the exercise of those rights and obligations would cause a serious damage or threat to biological diversity. This paragraph is not intended to create a hierarchy between this Protocol and other international instruments.
2. Nothing in this Protocol shall prevent the Parties from developing and implementing other relevant international agreements, including other specialized access and benefit-sharing agreements, provided that they are supportive of and do not run counter to the objectives of the Convention and this Protocol.
3. This Protocol shall be implemented in a mutually supportive manner with other international instruments relevant to this Protocol. Due regard should be paid to useful and relevant ongoing work or practices under such international instruments and relevant international organizations, provided that they are supportive of and do not run counter to the objectives of the Convention and this Protocol.
4. This Protocol is the instrument for the implementation of the access and benefit-sharing provisions of the Convention. Where a specialized international access and benefit-sharing instrument applies that is consistent with, and does not run counter to the objectives of the Convention and this Protocol, this Protocol does not apply for the Party or Parties to the specialized instrument in respect of the specific genetic resource covered by and for the purpose of the specialized instrument.

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4. This Protocol is the instrument for the implementation of the access and benefit-sharing provisions of the Convention. Where a **specialized international access and benefit-sharing instrument applies that is consistent with, and does not run counter to the objectives of the Convention and this Protocol, this Protocol does not apply** for the Party or Parties to the specialized instrument in respect of the specific genetic resource covered by and for the purpose of the specialized instrument.

# A glimpse at the Nagoya Protocol (COP X/1)

 <p>EUROPEAN THE EUROPEAN PARLIAMENT</p> <p>2012/0278 (COD)</p> <p><u>LEGISLATIVE ACTS AND OTHER INSTRUMENTS</u> Subject: REGULATION OF THE EUROPEAN COUNCIL on compliance measures for Access to Genetic Resources and Arising from their Utilization in the Field of Agriculture, Forestry and Aquaculture</p> <p>PE-CONS 131/13</p> <p>DGE 1</p>	<p>Preamble (12): The <b>ITPGRFA</b> constitutes a specialised international access and benefit-sharing instrument within the meaning of <b>Article 4(4) of the Nagoya Protocol</b> that should <b>not be affected</b> by the rules implementing the Nagoya Protocol.</p>
<p>Article 4.4: Users acquiring Plant Genetic Resources for Food and Agriculture (<b>PGRFA</b>) in a country that is a Party to the Nagoya Protocol which has determined that PGRFA under its management and control and in the public domain, <b>not contained in Annex I</b> to the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA), will also be subject to the terms and conditions of the <b>standard material transfer agreement</b> for the purposes set out under the ITPGRFA, <b>shall be considered to have exercised due diligence</b> in accordance with paragraph 3 of this Article.</p>	
<p>DD/FC/hc</p> <p>EN</p>	

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# The International Treaty and the Nagoya Protocol

The main **conceptual differences** between the two instruments...

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# Collaboration for harmonious and mutually supportive implementation

- Request for collaboration between the Secretariats of the Treaty and the CBD in the text of the Treaty
- Repeated requests by Governing Body for close cooperation to promote harmonious and mutual supportive implementation, including capacity-building
- Memorandum of Cooperation, Joint Initiative
- Joint workshops, technical assistance, exchange of information.

# Collaboration for harmonious and mutually supportive implementation

- *Requests the Secretariat to [...] promote practical, harmonious and appropriate interfaces among them, both nationally and internationally.*
  - *Requests the Secretary [...] to continue exploring with the Secretariat of the [CBD], practical means and activities to further enhance to this cooperation [...].*
  - *Requests the Secretary [...] to continue facilitating such interaction on the mutual supportiveness, harmonious and appropriate implementation of the instruments.*
- ❖ GB-6 Resolution 3/2015 – Reference to the ABS Clearing House Mechanism as part of advice to be provided by the Scientific Advisory Committee in relation to cooperation with other organizations and initiatives

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# Conclusion

- Importance of **facilitated access and exchange of PGRFA for agrobiodiversity and food security**
- Need for **creating legal space for the implementation of the Treaty and its Multilateral System**, especially in the broader context of ABS legislation
- Need for establishing **clear administrative rules for users that consider the special characteristics of PGRFA and their uses**



The International Treaty  
ON PLANT GENETIC RESOURCES FOR FOOD AND AGRICULTURE

**Thank you!**

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